

MONTANA LEGISLATIVE HISTORY

Chapter 34 1997

Bill H 81 S _____ Original bill & history ☒ c

H. Committee on Nat'l Resources

Hearing Date(s) Jan 10 ☒ c

Jan 13 ☒ c

_____ c

_____ c

Date Out Jan 13 ☒ c

S. Committee on Nat'l Resources

Hearing Date(s) Jan 22 ☒ c

Jan 25 ☒ c

_____ c

_____ c

Jan 29 ☒ c

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

1997 LEGISLATIVE HISTORY

The 1997 Montana Legislature has dramatically changed the nature of the legislative minutes. Specifically, the minutes from House committees are extremely sparse in content, offering no substantive information from which to glean legislative intent. The Senate committees' minutes are somewhat fuller in content. Exhibits available from the State Law Library (which may include written statements, attendant information, roll call votes, roll call attendance, a list of public members present, specific action taken on legislative bills, etc.) are included with this request. For information on other exhibits, contact the Montana Historical Society Archives at 444-4774. Exhibits may also be purchased on a CD-ROM from the Montana Legislative Council (444-3064).

Just as in the 1995 legislative session, the House and Senate hearings were recorded. The Historical Society is the depository for the tapes. For information on accessing the tapes, call the archives at 444-4774.

If you have concerns over the format of the 1997 legislative minutes, it is suggested that you contact your state legislators.

4/24 SIGNED BY PRESIDENT
 4/25 TRANSMITTED TO GOVERNOR
 5/05 SIGNED BY GOVERNOR
 CHAPTER NUMBER 528
 EFFECTIVE DATE: 07/01/97

HB 79 INTRODUCED BY SIMPKINS *LC0744 DRAFTER: MCCLURE*

PROVIDE THAT THE BOARD OF PUBLIC EDUCATION MAY NOT ADOPT RULES, POLICIES, OR STANDARDS RELATING TO ACCREDITATION STANDARDS AND CERTAIN OTHER MATTERS UNLESS THE LEGISLATURE SPECIFICALLY ACTS TO FUND THE RULES, POLICIES, OR STANDARDS

12/20 INTRODUCED
 1/06 FIRST READING
 1/06 REFERRED TO EDUCATION & CULTURAL RESOURCES
 1/15 HEARING
 2/07 COMMITTEE REPORT—BILL PASSED AS AMENDED
 2/10 2ND READING PASSED 60 39
 2/11 3RD READING PASSED 66 33
 TRANSMITTED TO SENATE
 2/12 FIRST READING
 2/12 REFERRED TO EDUCATION & CULTURAL RESOURCES
 3/05 HEARING
 3/07 Tabled in COMMITTEE
 DIED in COMMITTEE

HB 80 INTRODUCED BY KITZENBERG *LC0071 DRAFTER: HEIMAN*

ESTABLISH A TAX CREDIT FOR BUSINESSES AND INDIVIDUALS HIRING RECENT MONTANA COLLEGE GRADUATES

12/23 INTRODUCED
 12/26 FISCAL NOTE REQUESTED
 1/06 FIRST READING
 1/06 REFERRED TO TAXATION
 1/08 FISCAL NOTE RECEIVED
 1/11 FISCAL NOTE PRINTED
 1/14 HEARING
 1/14 Tabled in COMMITTEE
 4/05 MISSED DEADLINE FOR 71ST DAY TRANSMITTAL
 DIED in COMMITTEE

HB 81 INTRODUCED BY DEVANEY *LC0176 DRAFTER: MITCHELL*

REVISE THE STATUTES REGARDING THE LEASING OF STATE LANDS FOR OIL AND GAS

BY REQUEST OF DEPARTMENT OF NATURAL RESOURCES & CONSERVATION

12/23 INTRODUCED
 12/26 FISCAL NOTE REQUESTED
 1/06 FIRST READING
 1/06 REFERRED TO NATURAL RESOURCES
 1/09 FISCAL NOTE RECEIVED
 1/10 HEARING
 1/10 FISCAL NOTE PRINTED
 1/14 COMMITTEE REPORT—BILL PASSED
 1/15 2ND READING PASSED 95 5
 1/16 3RD READING PASSED 97 3

	TRANSMITTED TO SENATE		
1/17	FIRST READING		
1/17	REFERRED TO NATURAL RESOURCES		
1/22	HEARING		
2/01	COMMITTEE REPORT—BILL CONCURRED		
2/15	2ND READING CONCURRED	50	0
2/17	3RD READING CONCURRED	50	0
	RETURNED TO HOUSE		
2/19	SIGNED BY SPEAKER		
2/20	SIGNED BY PRESIDENT		
2/21	TRANSMITTED TO GOVERNOR		
2/24	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 34		
	EFFECTIVE DATE: 02/24/97		

HB 82 INTRODUCED BY HIBBARD

LC0212 DRAFTER: PETESCH

REVISE THE LAWS GOVERNING CORPORATE TAXES
BY REQUEST OF DEPARTMENT OF REVENUE

12/23	INTRODUCED		
12/27	FISCAL NOTE REQUESTED		
1/06	FISCAL NOTE RECEIVED		
1/06	FIRST READING		
1/06	REFERRED TO TAXATION		
1/09	FISCAL NOTE PRINTED		
1/14	HEARING		
1/23	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/25	2ND READING PASSED	85	13
1/27	3RD READING PASSED	78	19
	TRANSMITTED TO SENATE		
1/28	FIRST READING		
1/28	REFERRED TO TAXATION		
2/06	HEARING		
2/07	COMMITTEE REPORT—BILL CONCURRED		
2/25	2ND READING CONCURRED	50	0
2/26	3RD READING CONCURRED	49	0
	RETURNED TO HOUSE		
3/06	SIGNED BY SPEAKER		
3/07	SIGNED BY PRESIDENT		
3/10	TRANSMITTED TO GOVERNOR		
3/13	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 51		
	EFFECTIVE DATE: 03/13/97		

HB 83 INTRODUCED BY BERGSAGEL

LC0419 DRAFTER: MACMASTER

ALLOW AND PROVIDE FOR THE REGULATION OF PRIVATE CORRECTIONAL
FACILITIES
BY REQUEST OF DEPARTMENT OF CORRECTIONS

12/23	INTRODUCED		
12/27	FISCAL NOTE REQUESTED		
1/06	FIRST READING		
1/07	REFERRED TO CORRECTIONS SELECT COMMITTEE		
1/09	FISCAL NOTE RECEIVED		
1/15	FISCAL NOTE PRINTED		
2/20	HEARING		
3/11	COMMITTEE REPORT—BILL PASSED AS AMENDED		
3/13	2ND READING PASSED AS AMENDED	81	17
3/15	3RD READING PASSED	76	22

HOUSE BILL NO. 81

INTRODUCED BY DEVANEY

BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE STATUTES REGARDING THE LEASING OF STATE LANDS FOR OIL AND GAS; REVISING THE REQUIREMENTS FOR OIL AND GAS OPERATIONS; AMENDING SECTIONS 77-3-423, 77-3-432, 77-3-433, 77-3-435, 77-3-442, 82-11-123, AND 82-11-161, MCA; REPEALING SECTIONS 82-11-113, 82-11-114, 82-11-115, 82-11-116, AND 82-11-162, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 77-3-423, MCA, is amended to read:

"77-3-423. Annual rental. (1) The annual money rentals to be paid to the state for oil and gas leases ~~issued on and after July 1, 1975, shall~~ must be set by the board but may not be less than \$1.50 for each acre of land leased.

(2) In addition to the sum of \$1.50 per acre, the rental for the first year of the lease ~~shall~~ must also include any sum in excess of \$1.50 per acre offered and accepted for the first year's rental.

(3) ~~This~~ The annual rental ~~shall in no case under this section may not~~ be less than \$100 a year.

(4) The first year's rental ~~shall~~ must be paid before the issuance of the lease. The rentals for each subsequent year of the lease ~~shall be~~ are due and payable before the beginning of ~~such~~ the subsequent lease year, and upon. Upon failure to make ~~such~~ the rental payment, the lease terminates unless there is ~~a producing well~~ a well currently being drilled, a producing well, or a shut-in well approved by the department on the lease. Rental paid for any year ~~shall~~ must be credited against any royalty that accrues during that year."

Section 2. Section 77-3-432, MCA, is amended to read:

"77-3-432. Royalty. In ~~every~~ each oil and gas lease granted by the state under this part ~~and acts~~ amendatory thereto, there ~~shall~~ must be reserved to the state as consideration ~~therefor~~ for the lease a royalty in all oil and gas produced and saved from all lands covered ~~thereby~~ by the lease and not used for

light, fuel, and operation purposes on the leased premises, which ~~shall~~ must be equivalent to the full market value, as ascertained by the board at the date of ~~such the~~ the lease, of the estate or interest of the state in the lands and oil and gas deposits disposed of under ~~such the~~ the lease. ~~Such The~~ The royalty reservation ~~shall must~~ must be set by the board but may not be less than 12 1/2% on gas and not less than 12 1/2% on ~~that portion of the average production of~~ oil or casinghead gasoline for each producing well ~~not exceeding 3,000 barrels~~ for the calendar month. The state may share the expense of transporting the oil to the nearest market on a basis proportional to the state's royalty interest in ~~such the~~ the oil and at a rate per mile acceptable to the department."

Section 3. Section 77-3-433, MCA, is amended to read:

"77-3-433. Shut-in gas royalty. The royalty on gas, including casinghead gas and all gaseous substances, ~~while the same is~~ not sold or used off the premises, ~~shall must~~ must be at the rate of \$400 per well lease each year or the amount of the annual rental provided in ~~said the~~ the lease ~~in lieu of such per well rate,~~ whichever is the greater, payable on or before the annual anniversary date of the lease. As long as ~~such~~ the leased lands contain a well capable of ~~such~~ production in paying quantities and ~~such the~~ the requisite payment is made, the lease ~~shall must~~ must be considered as a producing lease under the lease terms."

Section 4. Section 77-3-435, MCA, is amended to read:

"77-3-435. Payments due to state -- audit -- notice -- action. (1) The report under 77-3-431 ~~shall~~ must be accompanied by payment of the amount due the state as royalty for the month covered by the report unless the state's royalty is being or has been paid ~~direct~~ directly by the purchaser thereof. However, ~~where when~~ when the amount of royalty due from ~~any a~~ a lease is determined by the board to be so small as to make it uneconomical to collect monthly, the board may authorize royalty payments to be made semiannually.

(2) Oil and gas leases granted by the state ~~shall must~~ must contain suitable provisions imposing upon all lessees the obligation to make payments due the state in the manner, at the time, and to ~~such the~~ the representative of the state ~~as that~~ that may be required by the board.

(3) Except as provided in subsection (4), the department may, within 7 years of the filing of a report pursuant to 77-3-431, commence an audit of a lessee's or a former lessee's operation to determine whether the report is complete and accurate and whether all royalties owed have been paid. The

department shall notify the lessee in writing of the audit. The notice must describe the period for which the audit is being conducted. Upon conclusion of the audit, the department shall notify the lessee of the department's conclusions and, if the department has determined that additional royalties are owed, the basis for that determination. An action to compel payment of royalties due must be commenced within 2 years of the date of mailing the notice.

(4) If a lessee or former lessee, with intent to evade payment of royalties, purposely or knowingly files a false report or purposely or knowingly fails to pay royalties owed, the department may conduct an audit and file an action to collect royalties at any time after the royalty is due."

Section 5. Section 77-3-442, MCA, is amended to read:

"77-3-442. Disposition of property of lessee upon termination of lease. (1) Upon the termination for any cause of ~~any~~ a lease issued under this part, the former lessee has 6 months after the date of the termination to remove from the premises all machinery, fixtures, improvements, buildings, and equipment belonging to ~~him on the premises~~ the lessee, except for casing in the wells and other equipment or apparatus necessary for the preservation of any oil or gas well or wells. As to ~~such~~ the casing, equipment, and apparatus, any succeeding lessee or, in the event there is no succeeding lessee, the state wishing to have ~~such~~ the property left upon the premises shall pay ~~the~~ a reasonable value ~~thereof~~ for the property to the former lessee.

(2) If the succeeding lessee or the board is unable to agree with the former lessee upon the reasonable cash value of ~~such~~ the casing, equipment, and apparatus, the succeeding lessee or, if there is no succeeding lessee, the state, ~~as the case may be~~, shall pay in cash to the former lessee a sum fixed as a reasonable price by a board of three appraisers, one of whom ~~shall~~ must be chosen by the successful bidder, one by the former lessee, and the third by the two ~~se~~ appraisers chosen. If a person refuses to appoint an appraiser within 15 days of a request to do so by the department, the department may appoint an appraiser for that person. ~~He~~ The appraisal shall must be reported to the respective parties in writing and is final and conclusive.

(3) ~~The~~ Unless the department gives written authorization, the former lessee may not remain in possession ~~and or~~ manage the land and property formerly covered by ~~his~~ the lease, ~~until the value of the casing, equipment, and apparatus which the succeeding lessee or the state desires to have left upon the premises is fixed in the manner provided in this section and has been paid to him in cash.~~ During the time

the former lessee remains in ~~such~~ authorized possession, ~~he~~ the lessee may retain the same share of the products of the premises as inured to ~~him~~ the lessee during the term of ~~his~~ the lease. ~~Should~~ If the state or other bidder does not desire any of the lessee's property as provided in this section, the lessee shall properly plug all wells and remove all of ~~his~~ the lessee's property from the ~~lands~~ premises."

Section 6. Section 82-11-123, MCA, is amended to read:

"82-11-123. Requirements for oil and gas operations. Subject to the administrative control of the department under 2-15-121, the board shall require:

(1) identification of ownership of oil or gas wells, producing properties, and tanks;

(2) the making and filing of acceptable well logs, including bottom-hole temperatures (in order to facilitate the discovery of potential geothermal energy sources), the making and filing of reports on well locations, and the filing of directional surveys, geological sample logs, mud logs, core descriptions, and ordinary core analysis, if made; however, logs of exploratory or wildcat wells need not be filed for a period of 6 months following completion of those wells;

(3) the drilling, casing, producing, and plugging of wells and class II injection wells in a manner that prevents the escape of oil or gas out of one stratum into another, the intrusion of water into oil or gas strata, blowouts, cave-ins, seepages, and fires and the pollution of fresh water supplies by oil, gas, salt, or brackish water;

(4) the restoration of surface lands to their previous grade and productive capability after a well is plugged or a seismographic shot hole has been utilized and necessary measures to prevent adverse hydrological effects from the well or hole, unless the surface owner agrees in writing, with the approval of the board or its representatives, to a different plan of restoration;

(5) the furnishing of a reasonable bond with good and sufficient surety, conditioned for performance of the duty to properly plug each dry or abandoned well. The bond may be forfeited in its entirety by the board for failure to perform the duty to properly plug each dry or abandoned well and may not be canceled or absolved;

~~or~~ if the well fails to produce oil or gas in commercial quantities, until:

~~##~~(a) the board determines the well is properly plugged and abandoned as provided in the board's rules; or

~~##~~(b) the requirements of 82-11-163 are met;~~or.~~

~~(b) if the well is completed after June 30, 1989, until the owner notifies the board that the well is producing oil and gas in commercial quantities and meets the requirements of 82-11-162;~~

(6) proper gauging or other measuring of oil and gas produced and saved to determine the quantity and quality of oil and gas;

(7) that every person who produces, transports, or stores oil or gas or injects or disposes of water in this state shall make available within this state for a period of 5 years complete and accurate records of the quantities. The records must be available for examination by the board or its employees at all reasonable times. The person shall file with the board reports as it may prescribe with respect to quantities, transportations, and storages of the oil, gas, or water; and,

(8) the installation, use, and maintenance of monitoring equipment or methods in the operation of class II injection wells."

Section 7. Section 82-11-161, MCA, is amended to read:

"82-11-161. Oil and gas production damage mitigation account -- statutory appropriation. (1)

There is an oil and gas production damage mitigation account within the state special revenue fund established in 17-2-102. The oil and gas production damage mitigation account is controlled by the board.

(2) At the beginning of each biennium, there must be allocated to the oil and gas production damage mitigation account \$50,000 from the interest income of the resource indemnity trust fund, except that if at the beginning of a biennium the unobligated cash balance in the oil and gas production damage mitigation account:

(a) equals or exceeds \$200,000, no allocation will be made; or

(b) is less than \$200,000, then an amount less than or equal to the difference between the unobligated cash balance and \$200,000, but not more than \$50,000, must be allocated to the oil and gas production damage mitigation account from the interest income of the resource indemnity trust fund.

(3) In addition to the allocation provided in subsection (2), there must be deposited in the oil and gas production damage mitigation account:

~~(a) all funds received by the board pursuant to 82-11-136; and~~

~~(b) all fees received by the board from owners of producing wells pursuant to 82-11-162.~~

(4) If a sufficient balance exists in the account, funds are statutorily appropriated, as provided in 17-7-502, from the oil and gas production damage mitigation account, upon the authorization of the board,

1 to pay the reasonable costs of properly plugging a well and either reclaiming or restoring, or both, a drill
2 site or other drilling or producing area damaged by oil and gas operations if the board determines that the
3 well, sump, hole, drill site, or drilling or producing area has been abandoned and the responsible person
4 cannot be identified or located or if the responsible person fails or refuses to properly plug, reclaim, or
5 restore the well, sump, hole, drill site, or drilling or producing area within a reasonable time after demand
6 by the board. The responsible person shall, however, pay costs to the extent of that person's available
7 resources and is subsequently liable to fully reimburse the account or is subject to a lien on property as
8 provided in 82-11-164 for costs expended from the account to properly plug, reclaim, or restore the well,
9 sump, hole, drill site, or drilling or producing area and to mitigate any damage for which the person is
10 responsible.

11 (5) Interest from funds in the oil and gas production damage mitigation account accrues to that
12 account."

13
14 **NEW SECTION. Section 8. Repealer.** Sections 82-11-113, 82-11-114, 82-11-115, 82-11-116, and
15 82-11-162, MCA, are repealed.

16
17 **NEW SECTION. Section 9. Effective date.** [This act] is effective on passage and approval.

18 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0081, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act generally revising the statutes regarding the leasing of state lands for oil and gas; revising the requirements for oil and gas operations.

FISCAL IMPACT:

None

Dave Lewis 1-7-97
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Charles R. Devaney 1-9-97
CHARLES R. DEVANEY, PRIMARY SPONSOR DATE
Fiscal Note for HB0081, as introduced

HB 81

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
55th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON NATURAL RESOURCES

Call to Order: By Chairman Dick Knox, on January 10, 1997, at
3:10 p.m., in Room 437

ROLL CALL

Members Present:

Rep. Dick Knox, Chairman (R)
Rep. Bill Tash, Vice Chairman (Majority) (R)
Rep. Hal Harper, Vice Chairman (Minority) (D)
Rep. Haley Beaudry (R)
Rep. Aubyn A. Curtiss (R)
Rep. Jon Ellingson (D)
Rep. Doug Mood (R)
Rep. Karl Ohs (R)
Rep. Scott J. Orr (R)
Rep. Bob Raney
Rep. Trudi Schmidt (D)
Rep. Robert R. Story, Jr. (R)
Rep. Jay Stovall (R)
Rep. Emily Swanson (D)
Rep. Lila V. Taylor (R)
Rep. Cliff Trexler (R)
Rep. Carley Tuss (D)
Rep. Douglas T. Wagner (R)

Members Excused: Karl Ohs, Cliff Trexler

Members Absent: none

Staff Present: Kathleen Williams, Legislative Services
Stephanie Braun, Committee Secretary

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 81 (1/7/97), HB 118
(1/7/97), HB 153 (1/7/97),
HB 156 (1/7/97)

Executive Action: none

HEARING ON HB 81

Sponsor: Rep. Charles Devaney, H.D. #97

Opening Statement by Sponsor: Rep. Devaney introduced bill and
provided EXHIBIT #1

{Tape: 1; Side: A; Approx. Time Count: 1.4; Comments: Charles Devaney; Exhibit #1 statement of why bill exists, slight hum (intermittent) in opening few sentences.}

Proponents:

Bud Clinch, Director of Department of Natural Resources and Conservation provided EXHIBIT #2

{Tape: 1; Side: a; Approx. Time Count: 6.8-8.7; Comments: Bud Clinch, trust land management function; Exhibit #2, Department of Natural Resource & Conservation Annual report.}

Gail Abercrombie, Executive Director of the Montana Petroleum Association

{Tape:1; Side: a; Approx. Time Count: 8.8; Comments: in support of the bill.}

Larry Brown, Northern Montana Oil & Gas Association

{Tape: 1; Side: a; Approx. Time Count: 9.9; Comments: intermittent hum here, only lasts a few seconds .}

Questions From Committee Members and Responses:

{Tape: 1; Side: a; Approx. Time Count: 14.7; Comments: Questions from Committee, Discussion with Proponents.}

Closing by Sponsor: Rep. Charles Devaney closes

{Tape: 1; Side: a; Approx. Time Count: 21.5; Comments: would appreciate a do pass recommendation.}

HEARING ON HB 118

Sponsor: Rep. Ed Grady, House District # 55 introduced the bill

Opening Statement by Sponsor: Rep. Ed Grady

{Tape: 1; Side: a; Approx. Time Count: 21.9; Comments: opening remarks. Act providing certain procurement statuses regarding state building and construction do not apply to environmental remediation and abandoned mine reclamation projects in the affected sections.}

Proponents:

Denise Mills, Administrator of Remediation Division of the Dept. of Environmental Equality provide Exhibit # 3

House Bill 81 - Representative Charles Devaney

House Natural Resources

Friday, January 10, 1997

HB 81 has been introduced by Rep. Devaney on behalf of the Department of Natural Resources and Conservation. The Department originally proposed two separate bills, one from the Trust Land Management Division with revisions to laws governing oil & gas leasing on state school trust lands (sections 1-5); and the second from the Board of Oil and Gas Conservation proposes two changes to existing statutes (sections 6-7), both in the form of repeal of existing code sections and to repeal of five statutes in entirety that deal with individual well plugging bonds (section 8). The Legislative Council combined these proposals, as both deal with oil and gas. The Legislative Council has also included several non-substantive style changes.

I would like to give the committee a brief explanation of substantive the substantive revisions by in the order they appear in the bill.

Section 1: Section 77-3-423(4) is proposed for revision to clarify that the automatic termination of a lease for non-payment of rental will not be invoked if there is a well currently being drilled, a producing well, or an approved shut-in well. The current statute references only "a producing well." The proposed revision allows the department to provide notice and an opportunity to correct the non-payment of rental in these specific instances.

Section 2: Section 77-3-432 is proposed for revision to remove an unnecessary reference to "3,000 barrels" from the royalty statute. The reference is a holdover from step-scale royalty clauses, which were simplified to single rate royalty clauses by the Land Board in 1983.

Section 3: Section 77-3-433 is proposed for revision to clarify that a lease shut-in payment is imposed on a per lease basis rather than a per well basis. As long as the lessee is diligently producing gas from a lease, even if some wells are not currently capable of production, no shut-in payment is

warranted to maintain the lease in good standing. This revision would bring the shut-in payment provision into conformity with common law and the industry norm for shut-in provisions.

Section 4: Section 77-3-435 is proposed to be amended to add new language to existing statute to establish a direct audit time frame that requires the Department of Natural Resources and Conservation to commence auditing of royalty reports and payments within 7 years of the filing of royalty reports. This creates a clear audit time frame directly through oil and gas leasing statutes. The alternative is an indirect reliance on contract law, which has an 8 year time-frame but which does not toll the running of the audit period unless court action is taken. This revision provides a more direct and consistent standard. The 7 year time frame would not apply if the lessee or former lessee intentionally evaded payment of royalties by purposefully or knowingly filing a false report. The 7 year timeframe is also consistent with Federal Royalty Fairness Act passed recently by the U.S. Congress.

Section 5: Section 77-3-442 is proposed to be revised in two substantive areas:

- 77-3-442(2): State O&G leases provide for arbitration to settle the value of improvements if the former lessee and new lessee cannot agree. Each side chooses an appraiser, then these two appraisers are to agree on a third. This revision gives the two appraisers 15 days to choose the third. If they fail to do so, the Director will choose a third appraiser. This revision thereby keeps the transfer process moving.

- 77-3-442(3): Current statute allows a former lessee to continue to operate a lease while transfer to a new lessee is in progress. Depending on the circumstances under which a lease was canceled, the State may not want the former lessee to continue to operate the lease. The revision provides for continued operation only upon authorization by the Department of Natural Resources and Conservation.

Sections 6 thru 8: As requested by the 1995 Legislature, the Board reviewed its administrative rules with the purpose of eliminating obsolete or unnecessary regulatory requirements. Those rules which had been adopted to implement the Natural Gas Policy Act of 1978 had not been used for several years. The Board published notice and repealed the NGPA rules, effective April 26, 1996, without any adverse public comment (no comment at all was received). It is now time to remove the underlying statutes that established the NGPA rulemaking authority.

The Natural Gas Policy Act of 1978 was passed by Congress as part of ongoing natural gas price regulations that had been started in the early 1950's under the Federal Power Commission (FPC). The NGPA established ceiling prices for a myriad of categories of natural gas, ranging from new "onshore" wells to "high cost" gas produced from deep wells or from 'tight sands' (formations with low permeability). Because the NGPA depended so heavily upon the accurate classification of gas wells, the states were asked to designate their oil and gas conservation agencies as the "jurisdictional agency" for NGPA category determinations. Montana agreed in 1979 to perform this function and the Board of Oil and Gas Conservation was thus designated and given rulemaking authority to implement the act. The Board's technical staff was delegated the primary authority and made hundreds of NGPA price category determinations during the 14 years following adoption of the enabling statutes. The price category process and the associated price ceiling legislation was repealed by Congress in 1993, making the Montana's NGPA process obsolete. The Board undertook this federal process without requesting staff, additional budget, or charging processing fees that many other states required. As a result, there is no budget or staff associated with the NGPA statutes, and no fiscal impact will result from repeal.

The second request from the Board of Oil and Gas is that the Legislature repeal those statutes that provide for the permanent release of an operators well plugging bond upon proof: (1) that the well is producing (and therefore paying into the Resource Indemnity Trust) and (2) payment of a \$125 fee into the Production Damage Mitigation Account.

This legislation was passed in the 1989 session as part of a package that intended to establish the Production Damage Mitigation Account as the 'surety' for new oil and gas wells drilled after June 30, 1989. The PDMA was to receive a large allocation of RIT interest income and form a permanent plugging fund which the Board could then use to plug wells. This process would alleviate the need for individual well plugging bonds, at least for new wells. Although the bond release part of the package passed, the large allocation to the plugging fund was cut to \$50,000 per biennium, an amount substantially less than envisioned.

The Board adopted forms and procedures as required by the statute, and has released 18 wells from bonds to date. The Board does not believe this process provides adequate financial assurance for the proper eventual plugging of depleted wells. While the Board holds the operator of a well responsible for its proper plugging, this statute appears to place ultimate responsibility upon the state as the guaran-

tor of plugging. There is no provision to return a well to bonded status under any circumstance, including the sale of a well to another party. It appears that the well is unbonded for the remainder of its life. While as a practical matter the state may indeed be the ultimate guarantor of proper plugging, the Board does not believe that \$125 is adequate compensation for this release of responsibility.

Since only a small number of wells are involved, we believe that the time is appropriate to end this process before any additional liability accrues to the state. It should be noted that the operators who have taken advantage of this option are mostly long time Montana operators and are in good standing with the Board. The Board's request to repeal these statutes and terminate this process is not intended to indicate that the participating operators are not behaving responsibly or are likely to default upon their obligations.

Section 9: Provides an immediate effective date.

State of Montana
Department of Natural
Resources and Conservation

Annual Report
for
Fiscal Year 1996

Exhibit # 2 - 86 page
publication

The full exhibit is available from:
MT Historical Society Archives
225 North Roberts
P. O. Box 201201
Helena, MT. 59602-1201
Phone: (406) 444-4774

July 1, 1995, to June 30, 1996

NATURAL RESOURCE COMMITTEE

ROLL CALL

DATE OF MEETING:

1/10/97

NAME	Yes	No	Comment
Rep. Bill Tash (VC Maj.)	✓		
Rep. Hal Harper (VC Min.)	✓		
Rep. Haley Beaudry	✓		
Rep. Aubyn A. Curtiss	✓		
Rep. ^{Jon} John Ellingson	✓		
Rep. Doug Mood	✓		
Rep. Karl Ohs			excused
Rep. Scott J. Orr	✓		
Rep. Bob Raney	✓		
Rep. Trudi Schmidt	✓		
Rep. Robert R. Story, Jr.	✓		
Rep. Jay Stovall	✓		
Rep. Emily Swanson	✓		
Rep. Lila V. Taylor	✓		
Rep. Cliff Trexler			excused
Rep. Carley Tuss	✓		
Rep. Douglas T. Wagner	✓		
Chairman Dick Knox	✓		

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

NATURAL RESOURCE COMMITTEE

BILL NO. 81

DATE: 1/10/97

SPONSOR(S) ~~GRADY~~ DEVANEY

PLEASE PRINT LEGIBLY

NAME & ADDRESS	REPRESENTING	BILL	PROPONENT	OPPONENT	INFORMA-TION WITNESS
LARRY BROWN	N.M.T. Oil & Gas.	81	✓		
BUD CLANCH	DNRC	81	✓		
TOMMY BUTLER	DNRC	81	✓		
JEFF HAYES	DNRC	81	✓		
GAIL ABERCROMBIE	MT Petrol Assn		✓		
TOM RICHMOND	BOARD OF OIL & GAS	81	✓		

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

{Tape: 2; Side: b; Approx. Time Count: 17.2; Comments: Questions from Representatives to Mark Simonich and Bob Raisch.}

{Tape: 3; Side: a; Approx. Time Count: 0.1; Comments: more questions from Representatives to Mark Simonich and Bob Raisch.}

Closing by Sponsor: close by Rep. Royal Johnson

{Tape: 3; Side: a; Approx. Time Count: 28.9; Comments: closing remarks continues on side "b".}

{Tape: 3; Side: b; Approx. Time Count: 0.1; Comments: closing remarks from Rep. Royal Johnson.}

Rep. Knox, this concludes testimony for HB 54 and HB 59, he scheduled Executive Action in 1 week

{Tape: 3; Side: b; Approx. Time Count: 10.8 ; Comments: Executive Action for these bills, HB 54 & HB 59 is scheduled for 1 week from today, Monday January 20 ,1997.}

Rep. Knox, called Committee to order to begin Executive Action on HB 81

{Tape: 3; Side: b; Approx. Time Count: 11.2; Comments: Executive Action.}

EXECUTIVE ACTION ON HB 81

Amendments: none

Motion: By Rep. Hal Harper H.D. #52, DO PASS

{Tape: 3; Side: b; Approx. Time Count: 13.4; Comments: motion of DO PASS.}

Discussion: none, Voice vote was called for by Chairman Knox

Motion/Vote: Motion carries, Bill passed unanimously, 18-0

{Tape: 3; Side: b; Approx. Time Count: 14.0; Comments: voice vote no discussion.}

EXECUTIVE ACTION ON HB 118

Amendments: file #hb011801.akw submitted and described by Natural Resource Staffer, Kathleen Williams, Resource Policy Analyst

{Tape: 3; Side: b; Approx. Time Count: 14.6; Comments: handed out amendment as requested by Rep. Dick Knox from H.D. 93.}

{Tape: 3; Side: b; Approx. Time Count: 15.1; Comments: Kathleen Williams, read amendment as proposed by DOT, DOT agreed to the amendment as prepared by Kathleen Williams.}

Discussion: Comments by Rep. Bob Raney, H.D. #26

MINUTES

**MONTANA SENATE
55th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON NATURAL RESOURCES

Call to Order: By CHAIRMAN LORENTS GROSFIELD, on January 22, 1997, at 1:00 P.M., in ROOM 405

ROLL CALL

Members Present:

Sen. Lorents Grosfield, Chairman (R)
Sen. William S. Crismore, Vice Chairman (R)
Sen. Vivian M. Brooke (D)
Sen. Mack Cole (R)
Sen. Dale Mahlum (R)
Sen. Bea McCarthy (D)
Sen. Ken Miller (R)
Sen. Mike Taylor (R)
Sen. Fred R. Van Valkenburg (D)

Members Excused: Sen. Tom Keating (R)

Members Absent: None

Staff Present: Larry Mitchell, Legislative Services Division
Gayle Hayley, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: HB 81; 1/17/97

Executive Action: SB 97; no final action

HEARING ON HB 81

Sponsor: REP. CHARLES DEVANEY, HD 97, Plentywood

Proponents: Bud Clinch, Director, DNRC,
Gail Abercrombie, Executive Director of Montana
Petroleum Assoc.
Larry Brown, Northern Montana Oil & Gas Assoc.

Opponents: None

Opening Statement by Sponsor:

REP. CHARLES DEVANEY, HD 97, Plentywood, today I bring you HB 81 at the request of the DNRC. The two divisions of DNRC, Trust Lands Minerals Leasing Dept. and the Board of Oil & Gas, both

have a hand in this. You'll find in front of you a description of the changes in all sections of the bill. The first 5 sections deal with leasing trust lands, the 6-8 sections deal with some programs of the DNRC. Section 1 clarifies that the automatic termination of the lease for nonpayment of rental will not be invoked if there is a well currently being drilled on the lease, a producing well or an approved shut-in well. The current statute says only a producing well and, if someone is actually drilling a well, we'll sit back and see if we can get some royalties even if they don't pay rentals. Section 2 is the provision to remove unnecessary reference to a 3,000 barrel royalty clause that is a holdover from the old step scale royalty clauses that were in leases in 1983. Section 3 clarifies that the lease shut-in payment is imposed per lease rather than per well. The reason being it only takes one producing well to hold a lease. Section 4 creates a clear audit time frame directly through the oil and gas leasing statutes. They have critiqued that particular section two or three times and this clarifies it when the department has the opportunity to audit records of a producing oil and gas company. Section 5 contains two substantial changes. State oil and gas leases provide for arbitration to sell the value of accretments if the former lessee and new lessee cannot agree. Each side chooses an appraiser then these two appraisers agree on a third. This provision gives two appraisers 15 days to choose a third. If they fail to do so, the director will appoint a third appraiser keeping the system moving along. Current statutes allow the former lessee to continue to operate the lease while the transfer to a new lessee is in progress. Depending upon the circumstances under which the lease was cancelled, the state may not want the former lessee to continue to operate the lease. This revision provides for the continued operation only upon the authorization of the Director of the Department of Natural Resources & Conservation.

As I stated, sections 6 through 8 deal with the Board of Oil & Gas Conservation. As requested by the 1995 Legislature, the board reviewed it's administrative rules with the purpose of eliminating obsolete or unnecessary requirements. Those rules which have been adopted to implement the Natural Gas Policy Act of 1978 have not been used for several years. The Board published notice to repeal the NGPA rules effective April 26, 1996 without any adverse comment. It is now time to remove the underlying statutes which establish the Natural Gas Policy Act authority. The Natural Gas Policy Act was passed in 1978 by Congress and it had to do with the deep wells or type sand production of gas, trying to raise the price of the expenses to produce gas and get a price differential there for the shallow gas. It never did work out. What happened was that the Natural Gas Policy Act finally just set a minimum for everything and it was repealed in a short period of time. The second request from the Board of Oil & Gas is that the Legislature repeal those statutes that provide permanent release of an operator's well plugging bond upon proof that (1) the well is producing and therefore paying into the RIT and (2) payment of

\$125.00 into the production mitigation account. In 1989, the Legislature passed the Production Damage Mitigation Account. There was supposed to be transfers of large amount of dollars into this Production Damage Mitigation Account and this was supposed to offset the plug in abandoning costs of all the wells. Therefore, we didn't need the bonds; so if you paid \$125.00 they gave you your bond back and then you were bonded by this account that was coming out of the RIT. They never did make any big transfers of money into this account so they quit using the whole thing. Somewhere along the line, since the Legislature never funded it, the Production Damage Mitigation Account never did occur. What we're doing here is just repealing the entire portion which deals with the nonexistent Production Mitigation Account. That is the bill in a nutshell. We'll be available to answer questions. **REP. DEVANEY** handed in his written testimony (EXHIBIT 1).

Proponents' Testimony:

Bud Clinch, Director, DNRC. As **REP. DEVANEY** has mentioned, he has agreed to bring this bill forward on behalf of the department. Through executive reorganization which occurred through SB 234 in the last session, we find ourselves in a situation of having two separate divisions within the department that are involved with various oil and gas issues. In this bill, it actually brings about changes affecting both of those divisions. Sections 1 through 5 affect various statutes and sections that pertain to state land leasing and Sections 6 through 7 pertain to regulatory authorities that are administered by the Board of Oil and Gas. I don't believe I need to go into the detail **REP. DEVANEY** has. I would tell you though that the changes brought about by this legislation are really intended to bring the statutes in line with the way the department, the State Trust and Management Division and the Board of Oil and Gas are currently operated. Basically, it is a clean-up and intended to make the statutes reflect the way that we are currently doing business. With that I'll be available for questions and I respectfully request that they do pass.

Gail Abercrombie, Executive Director of Montana Petroleum Assoc. Part of this bill, the audit portion regarding state lands was in a bill last session, but because it was teamed up with a controversial issue it got lost. We were rather chagrined that it got lost at that time. That is limiting the 7 year audit period so we are in favor of this bill. As it was said, the last parts, regarding the oil & gas provisions, are removing from statute those parts that aren't being used. We are in favor of the bill. Thank you.

Larry Brown, Northern Montana Oil & Gas Assoc. We also support the bill for the same reasons that you've heard from **REP. DEVANEY** and **Gail Abercrombie**.

Opponents' Testimony: None

Questions From Committee Members and Responses:

SEN. WILLIAM CRISMORE for **Director Clinch**: With respect to section 1, we're letting people off the hook for their rental payments if they're currently drilling. Presumably, if they hit something, we get the rental; if they don't hit something, I don't know if we get it or not. At \$1.50 an acre, it's not a huge amount. When we're dealing with state lands, we're generally dealing with small parcels not larger than a section. Why are we letting them off the hook? **Director Clinch**: Section 1 is usually talking about the annual rental rate they pay to keep that lease in their name. Please remember that if it becomes a producing well, then there are additional royalties that are accrued to the state. What we find is that there's a time frame during the term of the lease. Often times when that gets to the point of termination, the lessee has decided to go about drilling a well and may in fact be in the process of that. This provision that's being added here is merely taking into consideration that if the well is under construction or is being drilled, they are not going to be subject to failure to make a payment. That will be considered meeting the due diligence requirement.

Monte Mason, Minerals Management Bureau Chief for DNRC: I might add this does not excuse the actual payment of the rental. It does clarify that the lease will not automatically terminate. If they're out there drilling a well they'll get notice and opportunity to pay their rental. It just won't automatically terminate.

CHAIRMAN GROSFIELD: If we were dealing with a private lease here on private land, certainly the lessor would be expected to make the payment whether they were drilling or not. Seems kind of odd to me that in the case of public lands we're letting them off the hook.

Monte Mason: For all leases to have the obligation, if they have a lease that's actually producing, they get notice and opportunity to correct the fact that they might have missed a rental payment. Under the current statute, however, for non-producing lease or lease where they're even drilling a well, it automatically terminates. Generally speaking, even on fee leases, a person will get notice and opportunity to correct when there's activity on the lease and that's what we're trying to portray here. If there's activity on the lease, we have this lessor/lessee relationship with them. They're drilling a well on our land and if they happen to miss a rental payment we will give them notice and opportunity to correct. What will still be in the law is that if they're not doing anything out there and if it's an inactive lease and they miss that rental payment, it will automatically terminate.

CHAIRMEN GROSFIELD: Am I correct in understanding the way it works in the private sector is that if there's a lease, we're

usually talking about a 10 year lease and there are annual payments. As long as those payments are made the lease is in force. What happens in practice is a company, say Texaco, has a lease and they make payments for 4 or 5 years and then they say we don't want that property after all. They don't necessarily call up the owner and inform them that they're dropping the lease. They just don't make the payment and then it automatically terminates. I presume that works the same with respect to public lands.

Monte Mason: Yes, it does. This modification would only allow notice and opportunity to correct if they're actually drilling a well.

CHAIRMAN GROSFIELD: Here is another unrelated question for **Mr. Clinch** or **Monte Mason**. We are getting rid of the production damage mitigation account and we're repealing the account because it's never been used. My question is why hasn't it been used? Why are you coming to repeal the account rather than to put some teeth into the account so that it does get used?

Bud Clinch: I believe there are some other provisions that have become more effective in terms of implementing that. I would defer to **Monte** or perhaps **Gail** to provide you the detailed information. This is a section that comes from the Board of Oil & Gas that is administratively attached to the department. I'm not as familiar with those aspects. Perhaps **Ms. Abercrombie** could refer to that.

Gail Abercrombie: The \$125.00 was the amount, and at one point in time it was very difficult to get bonds for operators. There's still some problem but not as much as had happened back when this was put into place. The provision here was that if these wells were on a bond and an operator was able to get that size of bond, they could then remove one of the wells from that bond by paying this \$125.00 fee into this fund, and therefore leave a space on their bond that they could put another well onto. That situation has corrected itself, and the removal of a well from a bond is not encouraged anymore. Therefore, the use of this provision is not only discouraged but is not being done. The bonds now out there cover the whole wells and wells are not excused from bond.

Closing by Sponsor:

REP. DEVANEY: As they say, the Production Damage Mitigation Account was never funded by the legislature either. So there was no money to back up any of the bonds anyway. I really appreciate your attention and time and we respectfully request a do pass out of committee.

CHAIRMAN GROSFIELD: Thank you. We will not take executive action today as **SEN. KEATING** is presenting a bill elsewhere and

I'd like to give him an opportunity to look at this since this is his line of work. That will close the hearing on **HB 81**.

CHAIRMAN GROSFIELD explained that he would like to discuss **HB 97** even though executive action would not take place today. He had a handout from Holly Franz who has some concerns on this bill. I also have some amendments from **DNRC**. If we're going to get into amending this, I have a very minor amendment that I will offer.

EXECUTIVE ACTION ON SB 97

Amendments: Amendments to Senate Bill No. 097 by the Sponsor were introduced (**EXHIBIT 2**).

Discussion: **CHAIRMAN GROSFIELD:** Would you, **Mr. Don McIntyre, DNRC**, explain the amendment proposal, especially Section 19 and the significance of the clarification instructions as well.

Don McIntyre: The amendment on page 12, line 21 is just an edit. This language is taking the redundancy of consideration out, no substantive change.

Look at the amendment on page 36, following line 29. At the hearing a question was raised as to doing something within the interim; a vacuum would be created if you have a moratorium. This would give the department the ability to negotiate with the tribe or some interim mechanism for issuing water rights during a moratorium period. Codification instruction, of course, then follows with that. It would be codified as a part of the water use acts of that particular chapter. Coordination instruction, which is the third amendment, basically says that if **SEN. SWYSGOOD'S** bill, **SB 59**, the extension of the Compact Commission passes, the suspension of the adjudication goes on from 1999 until 2005. If that bill doesn't pass and it remains at 1999, then the moratorium provision would be void because it basically would be a two-year period. There isn't much we can do within that two-year period. That's what these amendments are. I would be happy to answer any questions.

CHAIRMAN GROSFIELD: Did this just come from the department or did you get together with some people and put this concept together?

Don McIntyre: This basically comes from the department; I did meet with the Compact Commission people to make sure it didn't have an adverse effect on their compacting and that it was consistent with what they were doing.

CHAIRMAN GROSFIELD: With the committee's permission, I would like to ask **Mr. Metropoulos** to address the amendments.

Jon Metropoulos: I believe the Legislature should address what happens during the period of this moratorium, but not beyond that. I do have a proposal here (**EXHIBIT 3**). What I proposed is

SENATE NATURAL RESOURCES

EXHIBIT NO. 1DATE 11/22/97BILL NO. HS 81

House Bill 81 - Representative Charles Devaney

House Natural Resources

Friday, January 10, 1997

HB 81 has been introduced by Rep. Devaney on behalf of the Department of Natural Resources and Conservation. The Department originally proposed two separate bills, one from the Trust Land Management Division with revisions to laws governing oil & gas leasing on state school trust lands (sections 1-5); and the second from the Board of Oil and Gas Conservation proposes two changes to existing statutes (sections 6-7), both in the form of repeal of existing code sections and to repeal of five statutes in entirety that deal with individual well plugging bonds (section 8). The Legislative Council combined these proposals, as both deal with oil and gas. The Legislative Council has also included several non-substantive style changes.

I would like to give the committee a brief explanation of substantive the substantive revisions by in the order they appear in the bill.

Section 1: Section 77-3-423(4) is proposed for revision to clarify that the automatic termination of a lease for non-payment of rental will not be invoked if there is a well currently being drilled, a producing well, or an approved shut-in well. The current statute references only "a producing well." The proposed revision allows the department to provide notice and an opportunity to correct the non-payment of rental in these specific instances.

Section 2: Section 77-3-432 is proposed for revision to remove an unnecessary reference to "3,000 barrels" from the royalty statute. The reference is a holdover from step-scale royalty clauses, which were simplified to single rate royalty clauses by the Land Board in 1983.

Section 3: Section 77-3-433 is proposed for revision to clarify that a lease shut-in payment is imposed on a per lease basis rather than a per well basis. As long as the lessee is diligently producing gas from a lease, even if some wells are not currently capable of production, no shut-in payment is

warranted to maintain the lease in good standing. This revision would bring the shut-in payment provision into conformity with common law and the industry norm for shut-in provisions.

Section 4: Section 77-3-435 is proposed to be amended to add new language to existing statute to establish a direct audit time frame that requires the Department of Natural Resources and Conservation to commence auditing of royalty reports and payments within 7 years of the filing of royalty reports. This creates a clear audit time frame directly through oil and gas leasing statutes. The alternative is an indirect reliance on contract law, which has an 8 year time-frame but which does not toll the running of the audit period unless court action is taken. This revision provides a more direct and consistent standard. The 7 year time frame would not apply if the lessee or former lessee intentionally evaded payment of royalties by purposefully or knowingly filing a false report. The 7 year timeframe is also consistent with Federal Royalty Fairness Act passed recently by the U.S. Congress.

Section 5: Section 77-3-442 is proposed to be revised in two substantive areas:

- **77-3-442(2):** State O&G leases provide for arbitration to settle the value of improvements if the former lessee and new lessee cannot agree. Each side chooses an appraiser, then these two appraisers are to agree on a third. This revision gives the two appraisers 15 days to choose the third. If they fail to do so, the Director will choose a third appraiser. This revision thereby keeps the transfer process moving.

- **77-3-442(3):** Current statute allows a former lessee to continue to operate a lease while transfer to a new lessee is in progress. Depending on the circumstances under which a lease was canceled, the State may not want the former lessee to continue to operate the lease. The revision provides for continued operation only upon authorization by the Department of Natural Resources and Conservation.

Sections 6 thru 8: As requested by the 1995 Legislature, the Board reviewed its administrative rules with the purpose of eliminating obsolete or unnecessary regulatory requirements. Those rules which had been adopted to implement the Natural Gas Policy Act of 1978 had not been used for several years. The Board published notice and repealed the NGPA rules, effective April 26, 1996, without any adverse public comment (no comment at all was received). It is now time to remove the underlying statutes that established the NGPA rulemaking authority.

The Natural Gas Policy Act of 1978 was passed by Congress as part of ongoing natural gas price regulations that had been started in the early 1950's under the Federal Power Commission (FPC). The NGPA established ceiling prices for a myriad of categories of natural gas, ranging from new "onshore" wells to "high cost" gas produced from deep wells or from "tight sands" (formations with low permeability). Because the NGPA depended so heavily upon the accurate classification of gas wells, the states were asked to designate their oil and gas conservation agencies as the "jurisdictional agency" for NGPA category determinations. Montana agreed in 1979 to perform this function and the Board of Oil and Gas Conservation was thus designated and given rulemaking authority to implement the act. The Board's technical staff was delegated the primary authority and made hundreds of NGPA price category determinations during the 14 years following adoption of the enabling statutes. The price category process and the associated price ceiling legislation was repealed by Congress in 1993, making the Montana's NGPA process obsolete. The Board undertook this federal process without requesting staff, additional budget, or charging processing fees that many other states required. As a result, there is no budget or staff associated with the NGPA statutes, and no fiscal impact will result from repeal.

The second request from the Board of Oil and Gas is that the Legislature repeal those statutes that provide for the permanent release of an operators well plugging bond upon proof: (1) that the well is producing (and therefore paying into the Resource Indemnity Trust) and (2) payment of a \$125 fee into the Production Damage Mitigation Account.

This legislation was passed in the 1989 session as part of a package that intended to establish the Production Damage Mitigation Account as the 'surety' for new oil and gas wells drilled after June 30, 1989. The PDMA was to receive a large allocation of RIT interest income and form a permanent plugging fund which the Board could then use to plug wells. This process would alleviate the need for individual well plugging bonds, at least for new wells. Although the bond release part of the package passed, the large allocation to the plugging fund was cut to \$50,000 per biennium, an amount substantially less than envisioned.

The Board adopted forms and procedures as required by the statute, and has released 18 wells from bonds to date. The Board does not believe this process provides adequate financial assurance for the proper eventual plugging of depleted wells. While the Board holds the operator of a well responsible for its proper plugging, this statute appears to place ultimate responsibility upon the state as the guaran-

tor of plugging. There is no provision to return a well to bonded status under any circumstance, including the sale of a well to another party. It appears that the well is unbonded for the remainder of its life. While as a practical matter the state may indeed be the ultimate guarantor of proper plugging, the Board does not believe that \$125 is adequate compensation for this release of responsibility.

Since only a small number of wells are involved, we believe that the time is appropriate to end this process before any additional liability accrues to the state. It should be noted that the operators who have taken advantage of this option are mostly long time Montana operators and are in good standing with the Board. The Board's request to repeal these statutes and terminate this process is not intended to indicate that the participating operators are not behaving responsibly or are likely to default upon their obligations.

Section 9: Provides an immediate effective date.

it wide open and clear cut; 2) tracking of enforcement and compliance - tools for both legislatures and private citizens; 3) means to achieving some degree of comfort on both sides of these constantly polarized natural resource issues.

REP. KNOX strongly urged a positive vote for this bill.

VICE CHAIRMAN CRISMORE closed the hearing on HB 132.

EXECUTIVE ACTION ON HB 81

Motion: SEN. KEATING MOVED HB 81 BE CONCURRED IN

Discussion: SEN. KEATING asked Mr. Clinch about line 23, " Upon failure to make the rental payment, the lease terminates unless there is a well currently being drilled, a producing well, or a shut-in well approved by the department on the lease." SEN. KEATING stated that a completed well is not mentioned, so there is a gap between drilling and being a producing well. He asked about putting in the phrase, "a well currently being drilled or completed". He asked if a well currently being drilled is considered drilled and completed all in one. Mr. Clinch replied that was correct. He continued to say the interpretation is that once the activity of drilling has commenced that fulfills the requirement, the criteria. SEN KEATING then asked if the language here is sufficient and if a well is commenced, can it be completed and become a producing well if the rent is not paid. Mr. Clinch answered that this was correct. The lease is not terminated if the rentals are not paid.

Vote: MOTION THAT HB 81 BE CONCURRED IN
CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON HB 73

Motion/Vote: SEN. KEATING MOVED THAT HB73 BE CONCURRED IN.
MOTION CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON HB132

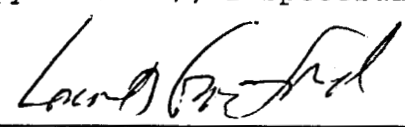
MOTION/VOTE: SEN. BROOKE MOVED THAT HB132 BE CONCURRED IN.
MOTION CARRIED UNANIMOUSLY.

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
January 30, 1997

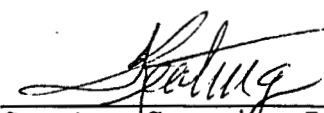
MR. PRESIDENT:

We, your committee on Natural Resources having had under consideration HB 81 (third reading copy -- blue), respectfully report that HB 81 be concurred in.

Signed: 

Senator Lorents Grosfield, Chair

 Amd. Coord.
 Sec. of Senate


Senator Carrying Bill

220835SC.STS

**MONTANA SENATE
1997 LEGISLATURE
NATURAL RESOURCES COMMITTEE**

ROLL CALL

DATE

1-29-97

[illegible]

SEN:1997
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CS-09

MONTANA SENATE
1997 LEGISLATURE
NATURAL RESOURCES COMMITTEE
ROLL CALL VOTE

DATE 1/29/97 BILL NO. HB81 NUMBER _____

MOTION: Sen Keating moved that HB81
Be CONCURRED IN

NAME	AYE	NO
SEN. VIVIAN BROOKE	X	
SEN. MACK COLE	X	
SEN. TOM KEATING	X	
SEN. DALE MAHLUM	X	
SEN. BEA MC CARTHY	X	
SEN. KEN MILLER	X	
SEN. MIKE TAYLOR	X	
SEN. FRED VAN VALKENBURG	X	
SEN. BILL CRISMORE, VICE CHAIRMAN	X	
SEN. LORENTS GROSFIELD, CHAIRMAN	X	

SEN:1997
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